



महाराष्ट्र शासन

सामान्य प्रशासन विभाग

४ था माळा, मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई-४०० ०३२
दुरध्वनी क्र. ०२२-२२०२५१७७ Email- rasik.khadse@nic.in

क्रमांक : बीसीसी-२०२१/प्र.क्र. ४५६ /१६-ब(ए)

दिनांक : ३० जून, २०२१.

प्रति

सर्व अ.मु.स./प्र.स./सचिव,
मंत्रालय, मुंबई-४०००३२.

विषय :- पदोन्नती संदर्भात मा. उच्च न्यायालयाने रिट याचिका(स्टॅम्प)
क्र. ६८१९/२०२१ व इतर याचिकांमध्ये दिलेले दि.२९.६.२०२१
रोजीचे आदेश..

महोदय/महोदया

मा. उच्च न्यायालय, मुंबई येथे दिव्यांग आरक्षणा संदर्भात दाखल करण्यात आलेल्या रिट याचिका (स्टॅम्प) क्र. ६८१९/२०२१ व इतर याचिकांमध्ये मा.उच्च न्यायालयाने दि.२९.६.२०२१ रोजी दिलेल्या निर्णयाची प्रत सोबत जोडली आहे.

२. सर्व मंत्रालयीन प्रशासकीय विभाग व अखत्यारितील कार्यालयामधील पदोन्नतीच्या कोट्यातील पदे भरतांना मा.उच्च न्यायालय, मुंबई यांच्या उपरोक्त दि.२९.६.२०२१ रोजीच्या निर्णयानुसार कार्यवाही करण्यात यावी. अशी कार्यवाही करतांना मा.उच्च न्यायालयाच्या आदेशाचा अवमान होणार नाही याचीही दक्षता घेण्यात यावी.

३. तसेच, मा. उच्च न्यायालय, मुंबई यांचे उपरोक्त आदेश आपल्या अखत्यारित असलेल्या सर्व कार्यालये / मंडळे महामंडळे /सर्व विद्यापीठे /महानगर पालिका /नगर पालिका /शासन अनुदानित शैक्षणिक संस्था/ स्थानिक स्वराज्य संस्था इ. च्या निदर्शनास आणण्यात यावेत, ही विनंती.

४. सदर पत्र महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध असून त्याचा संगणक सांकेतांक २०२१०६३०१९०४३६१७०७ असा आहे.

आपला

(र. अं. खडसे)
अवर सचिव, महाराष्ट्र शासन

प्रति,

- १) राज्यपाल यांचे प्रधान सचिव, राजभवन, मलबार हिल, मुंबई.
- २) मुख्यमंत्र्यांचे अपर मुख्य सचिव/प्रधान सचिव/सचिव, मंत्रालय, मुंबई.
- ३) सर्व मंत्री/राज्यमंत्री यांचे खाजगी सचिव,
- ४) मा. विरोधी पक्षनेता, विधानपरिषद
- ५) मा. विरोधी पक्षनेता, विधानसभा
- ६) सर्व विधानसभा सदस्य/विधानपरिषद सदस्य व संसद सदस्य, महाराष्ट्र राज्य, मुंबई.
- ७) मुख्य सचिव, महाराष्ट्र राज्य.
- ८) अपर मुख्य सचिव/प्रधान सचिव/सचिव, सर्व मंत्रालयीन विभाग,
- ९) प्रधान सचिव, महाराष्ट्र विधानमंडळ सचिवालय (विधानसभा)
- १०) प्रधान सचिव, महाराष्ट्र विधानमंडळ सचिवालय (विधानपरिषद)
- ११) सर्व विभागीय आयुक्त,
- १२) सर्व जिल्हाधिकारी,
- १३) सर्व जिल्हा परिषदांचे मुख्य कार्यकारी अधिकारी,
- १४) प्रबंधक, उच्च न्यायालय, मुळ शाखा, मुंबई,
- १५) प्रबंधक, उच्च न्यायालय, अपील शाखा, मुंबई,
- १६) प्रबंधक, लोकायुक्त आणि उपलोकायुक्त यांचे कार्यालय, मुंबई,
- १७) प्रबंधक, महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई, नागपूर, औरंगाबाद,
- १८) सचिव, महाराष्ट्र लोकसेवा आयोग, मुंबई,
- १९) सचिव, राज्य निवडणूक आयोग,
- २०) सचिव, राज्य माहिती आयोग,
- २१) महासंचालक, माहिती व जनसंपर्क महासंचालनालय, मंत्रालय, मुंबई,
- २२) राज्यातील सर्व महामंडळे आणि उपक्रम यांचे व्यवस्थापकीय संचालक,
- २३) सर्व महानगरपालिकांचे आयुक्त,
- २४) सर्व मुख्याधिकारी, नगरपरिषदा/नगरपालिका,
- २५) संचालक, समाजकल्याण, पुणे,
- २६) आयुक्त, आदिवासी विकास, नाशिक,
- २७) संचालक, आदिवासी संशोधन व प्रशिक्षण संस्था, पुणे,
- २८) संचालक, सेवायोजन, मुंबई,

- २९) महालेखापाल, महाराष्ट्र १/२ (लेखा व अनुज्ञेयता), मुंबई/नागपूर,
- ३०) महालेखापाल, महाराष्ट्र १/२ (लेखा परीक्षा), मुंबई/नागपूर,
- ३१) अधिदान व लेखा अधिकारी, मुंबई,
- ३२) निवासी लेखा परीक्षा अधिकारी, मुंबई,
- ३३) सर्व मंत्रालयीन विभागांच्या अधिपत्याखालील विभाग प्रमुख व कार्यालय प्रमुख,
- ३४) सर्व मंत्रालयीन विभाग, त्यांना विनंती करण्यात येते की, त्यांच्या अधिपत्याखालील सर्व विभाग प्रमुख/ कार्यालय प्रमुख यांना सदर शासन निर्णयाची प्रत, त्यांच्या स्तरावरून स्वतंत्रपणे पाठवून कार्यवाही करण्याच्या सूचना देण्यात याव्यात.
- ३५) ग्रंथपाल, महाराष्ट्र विधानमंडळ सचिवालय, विधानभवन मुंबई
- ३६) सर्व मान्यता प्राप्त राजकीय पक्षांची मध्यवर्ती कार्यालये, महाराष्ट्र राज्य,
- ३७) निवड नस्ती, कार्यासन १६-ब.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 6819 OF 2021

Ajay Daulat Jadhav & Ors. ... Petitioners
Vs.
The State of Maharashtra through
General Administration & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION NO. 1306 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

Ajay Daulat Jadhav & Ors. ... Applicants
Vs.
The State of Maharashtra & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 12028 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

The State of Maharashtra
through its Principal Secretary ... Applicant
Vs.
Ajay Daulat Jadhav & Ors. ... Respondents

ALONGWITH
INTERIM APPLICATION (STAMP) NO. 11845 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

The State of Maharashtra
through its Principal Secretary ... Applicant
Vs.
Ajay Daulat Jadhav & Ors. ... Respondents

WRIT PETITION (STAMP) NO. 58 OF 2021

Shri Anandrao Narayan More ... Petitioner

Vs.
The State of Maharashtra through
Its Chief Secretary & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 2081 OF 2021**

Sachin Haridas Kapane ... Petitioner

Vs.
The State of Maharashtra through
General Administration Department,
Mantralaya & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 2941 OF 2021**

Pranjal Pramod Patil & Ors. ... Petitioners

Vs.
The State of Maharashtra through
General Administration Department,
& Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 4228 OF 2021**

Gorakshnath Asaram Agale & Anr. ... Petitioners

Vs.
The State of Maharashtra through
General Administration Department,
& Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 6995 OF 2021**

Milind Ganpat Kadam & Ors. ... Petitioners

Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 10077 OF 2021**

Nandkumar Dashrath More & Ors. ... Petitioners

Vs.
State of Maharashtra & Ors. ... Respondents

ALONGWITH

WRIT PETITION NO. 2090 OF 2021

Krishna Piraji Jagtap ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 11573 OF 2021**

The Association of Sub Ordinate Service of
Engineers & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION NO. 2091 OF 2021**

Vivek Vishwanath Patil ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
WRIT PETITION NO. 2092 OF 2021**

Ashwini A. Ghodake & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 3798 OF 2020
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

The Principal Secretary, Water Resources
Department, Mantralaya ... Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule ... Respondent

**ALONGWITH
INTERIM APPLICATION NO. 1307 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Ankush Ashokrao Palve & Anr. ... Applicants
Vs.

Sanjaykumar Shashikant Kokane & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 1305 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Sunil Mahadevrao Thakre ... Applicant

Vs.

Sanjaykumar Shashikant Kokane & Ors. ... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 97023 OF 2020**

Bhimashankar Mallinath Mitkare & Ors. ... Petitioners

Vs.

The State of Maharashtra through
General Administration Department, & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 4375 OF 2021
IN
WRIT PETITION (STAMP) NO. 97030 OF 2020**

Milind Ganpat Kadam & Ors. ... Applicants

Vs.

Bhimashankar Mallinath Mitkare ... Respondent

**ALONGWITH
INTERIM APPLICATION NO. 3799 OF 2020
ALONGWITH
INTERIM APPLICATION NO. 3800 OF 2020**

Bhagwan Rajabhau Khedkar & Ors. ... Applicants

Vs.

Bholaso S/o. Vitthal @ Vithu Chaugule ... Respondent

**ALONGWITH
WRIT PETITION (STAMP) NO. 98060 OF 2020**

Chintaman Gulabrao Vanjari ... Petitioner

Vs.

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 98876 OF 2020**

Dhananjay Ambadas Patil
Vs.

... Petitioner

The State of Maharashtra through
General Administration Department,
& Ors.

... Respondents

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 11842 OF 2021
IN
WRIT PETITION (STAMP) NO. 98876 OF 2020**

State of Maharashtra through
its Principal Secretary, General
Administration Department & Ors.
Vs.

... Petitioners

Dhananjay Ambadas Patil

... Respondent

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 99729 OF 2020
IN
WRIT PETITION (STAMP) NO. 10955 OF 2016**

Bholaso S/o. Vitthal Alias Vithu Chaugule & Ors.
Vs.

... Petitioners

Shri Dinkarrao Sheshrao Shinde

... Respondent

**ALONGWITH
WRIT PETITION NO. 10955 OF 2016**

Shri Rajendra Bhanudas Andhale
Vs.

... Petitioner

The State of Maharashtra through
the Under Secretary Rural Development and
Irrigation Department & Ors.

... Respondents

**ALONGWITH
WRIT PETITION (STAMP) NO. 13058 OF 2018**

Bholaso s/o. Vitthal @ Vithu Chaugule ... Petitioner
Vs.
The State of Maharashtra through
Principal Secretary & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 770 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

Shri Bhalaso s/o. Vitthal @ Vithu Chaugule ... Applicant
Vs.
The State of Maharashtra ... Respondent

**ALONGWITH
INTERIM APPLICATION (STAMP) NO. 12027 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

The State of Maharashtra through
Principal Secretary & Ors. ... Applicants
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule & Ors. ... Respondents

**ALONGWITH
INTERIM APPLICATION NO. 394 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018**

Pranjal Pramod Patil ... Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule ... Respondent

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 11751 OF 2021**

Pranjal Pramod Patil & Ors. ... Petitioners
Vs.
The State of Maharashtra through

General Administration & Ors. ... Respondents

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 92 OF 2021**

Chintaman Gulabrao Vanjari ... Petitioner

Vs.

Sanjay Kumar, Chief Secretary ... Respondent

**ALONGWITH
CONTEMPT PETITION (STAMP) NO. 12001 OF 2021**

Sanjaykumar Shashikant Kokane ... Petitioner

Vs.

Sitaram Kunte, Chief Secretary of
State of Maharashtra ... Respondent

**ALONGWITH
(O.O.C.J.)
INTERIM APPLICATION NO.10542 OF 2021
IN
WRIT PETITION NO.87 OF 2021**

Jagdish S. Parbalkar ...Petitioner

v/s.

State of Maharashtra & Ors. ...Respondents

**AND
WRIT PETITION NO.1125 OF 2021**

Milind Nandkant Bhalerao ...Petitioner

v/s.

The State of Maharashtra & Ors. ...Respondents

.....

Mr. Abhijeet Desai a/w. Mr. Amol Jagtap for the Petitioner in Writ Petition (Stamp) No. 6995 of 2021.

Mr. Ajay Deshpande a/w. Mr. Anoop U. Patil for the Applicant in IA No. 1305 of 2021.

Mr. Yashodeep Deshmukh i/b. Mr. Akshay R. Kapadia for the Petitioners in Writ Petition (Stamp) No. 11573 of 2021 and Writ Petition No. 2092 of 2021.

Mr. P. S. Jaitely, Senior Advocate a/w. Mr. Sham Walve, Mr. Nikhil Waje, Mr. Vishesh Srivastav, Mr. Prem Gada for the Applicant/Petitioner in I.A. No. 1306 of 2021 in Writ Petition (Stamp) No. 6819 of 2021.

Mr. Balasaheb Deshmukh for the Intervenors in I.A. Nos. 3799/2020 and 3800/2020.

Mr. Vinod Sangvikar, Shakuntala Sangvikar, Vaishnavi Gholave for the Petitioner and Applicant in Writ Petition No. 13058/2018 with I.A.770/2021.

Mr. Vinod Sangvikar a/w. Shakuntala Sangvikar, Vaishnavi Gholave for the Petitioner Writ Petition No. 58/2021.

Mr. Tejesh Dande a/w. Mr. Bharat Gadhavi i/b. Tejesh Dande & Associates for the Petitioners in Writ Petition (Stamp) No. 2941 of 2021 and Contempt Petition (Stamp) No. 11751 of 2021.

Mr. Sugandh B. Deshmukh for the Petitioner in Contempt Petition (Stamp) Nos. 92/2021,12001/2021 and Writ Petition (Stamp) Nos.4228/2021, 10077/2021 and Writ Petition Nos. 2090/2021, 2091/2021, Writ Petition Stamp No. 97023/2020 with IA 1307/2021, Writ Petition Stamp Nos. 98060/2020 and Writ Petition No. 10955/2016.

Mr.Mahendra Shingade in WPSt/2081/2021 and WPSt/98876/2020.

Mr.Gautam S. Dongre for the Petitioner in WP/87/2021.

Mr.Siddesh Pilankar i/b Uday Warunjikar for the Petitioner in WP/1125/2021.

Mr.A.L.Patki, Addl.G.P. for State.

Mr.A.A.Kumbhakoni, Advocate General with Mr.P.P.Kakade, GP, Mr.Ashutosh Kulkarni `B' Panel Counsel, Smt.A.A.Purav, AGP with Smt.G.P.Sonawane.

....

**CORAM : A.A. SAYED &
MADHAV JAMDAR, JJ.**
**DATED : 29 JUNE 2021
(THROUGH V.C.)**

P.C.:

Learned Advocate General has addressed us on the position of identification of posts for Persons with Disability (PWD) in all the 31 departments of the State Government. He states that out of 31 departments, in 30 departments posts for PWD have been identified and endeavours are being made to complete the process of identification in the last department viz. Revenue & Forest Department at the earliest. He further states that the relevant GRs at the department level have also been issued in the 30 departments and the relevant GR at the level of Revenue & Forest Department will be issued accordingly. We expect this process of identification of posts for PWD in the Revenue & Forest Department to be completed within a period of two weeks from today. Learned Advocate General makes a statement in the form of a note handed in. The said note reads as under:

- a. State Government, within one month from today, will frame appropriate policy in terms of 1st proviso of Section 34 for of the Rights of persons with Disabilities Act, 2016, thereby issuing appropriate instructions for implementation of the reservation in promotion, contemplated by the said Section 34.

b. Within one week of framing of such policy, various departments of the State Government, in respect of identified posts, will initiate procedure, in accordance with law, for the implementation of provisions, of aforesaid Section 34. Appropriate orders of promotion in favor of Persons with Disabilities (PWDs), towards filling of the vacancies existing on 1st June, 2021, if any, in that regard, will be issued within two weeks of the decision of the respective Department Promotion Committees.

c. In the meantime, pending issuance of such orders of promotion and resultant posting orders, it may be kept open for the State Government to grant promotions to the non-PWDs in accordance with law, by reserving minimum 8% (being double of 4%) of the available total cadre strength in which such promotions are granted. The 8% posts, which are so kept aside, will be utilized for satisfying the reservations, in terms of aforesaid Section 34, read with proposed policy of the State Government.

d. The promotions, if any, granted so far, if satisfy the aforesaid conditions of keeping aside 8% of the posts, be permitted to be implemented, subject to further orders, that may be passed by this Hon'ble Court.

e. Orders of posting may be permitted to be issued in case where the promotions are so far granted, which satisfies the aforesaid condition of keeping aside 8% of the posts.

2. Learned Counsel for some of the Petitioners representing PWD, however, objected to the statement to the extent of not granting promotions to PWD and keeping aside 8% post of PWD (double of 4% entitlement of

PWD) and giving promotion to non-PWD. It is contended that despite restraint orders passed by this Court on 3-11-2020 in respect of promotion to non-PWD, promotions have been granted to some of the employees who are non-PWD even recently. Learned Counsel for the Petitioners representing PWD have pointed out the order dated 7 May 2021, wherein it was directed that the State Government may make promotions to non-PWD provided that the PWD employees are also promoted simultaneously in those departments. We need not examine these issues at this stage.

3. We accept the statement of the learned Advocate General to the extent that within one month, the State Government shall issue appropriate instructions in terms of first proviso to Section 34 of the Right of Persons with Disabilities Act, 2016 in respect of implementation of reservation in promotion and within one week of the issuance of such instruction by the State Government, various departments of the State Government, will initiate the procedure, in accordance with law, for the implementation of provisions of Section 34. We further accept his statement that appropriate orders of promotion in favour of PWD towards filling of the vacancies existing on 1st June, 2021, if any, in that regard, will be issued within two weeks of the decision of the respective Department Promotion Committees.

4. In 30 departments where posts have been identified, we permit the State Government to make simultaneously promotions in respect of 50% of the posts for non-PWD (including where promotions were made earlier but only posting orders are to be issued) and 50% of the posts identified for PWD. Such promotions shall be on ad-hoc and temporary basis only and subject to further orders of this Court after regular orders of promotion are made in terms of the statement of the learned Advocate General recorded in the latter part of paragraph No.3 above. We further make it clear that so far as Revenue & Forest department is concerned, since the posts are yet to be identified, no promotion shall be made in the said department, except to the extent of those employees who are due to retire by 31 July 2021 as stated hereinafter.

5. We expect the respective Departmental Promotion Committees to take appropriate decision at the earliest and in any event, within two weeks from the date on which the instructions are issued by the State Government in terms of first proviso to Section 34 of Rights of Persons with Disabilities Act, 2016.

6. We however permit the State Government, if so advised, to grant promotion to such employees who are due to retire on superannuation on or before 31 July 2021 and whose promotions are not granted due to ad-

interim orders of this Court.

7. So far as Writ Petition No.87 of 2021 is concerned, (Jagdish S. Parbalkar v/s. State of Maharashtra), we record the statement of the learned Advocate General that the Petitioner in the said Petition shall not be held ineligible only on account of disability in both legs (BL) as classified in the GR dated 24-02-2021.

8. In view of the aforesaid statement of the learned Advocate General, the Interim Application (L) No.10542 of 2021 in Writ Petition No.87 of 2021 is worked out and shall stand disposed of.

9. All the ad-interim orders passed by this Court in the aforesaid Petitions shall stand modified accordingly.

10. List the Petitions on 8 July 2021 'for Directions', when the State Government shall apprise the Court of the progress made in respect of promotions to PWD.

(MADHAV JAMDAR,J.)

(A.A.SAYED, J.)